



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

December 12, 1947

Hon. Gibb Gilchrist, President
A. & M. College of Texas
College Station, Texas

Opinion No. V-454

Re: Authority of Board
of Directors of A.
and M. College to
erect an employees
residence with bal-
ance of Pure Feed
Fund

Dear Sir:

We refer to your letter of recent date requesting the opinion of this Department as to whether the Board of Directors of Texas A. & M. College may erect an employee's residence at the Gonzales Agricultural Experiment Station out of the unexpended balance of the Pure Feed Fund under the terms of the current appropriation bill for educational institutions, H. B. 246, 50th Legislature.

Sec. 2 of said H. B. 246, provides, in part, that: "All balances in the institutional funds of the several State institutions named in this Act . . . are hereby appropriated for the support, maintenance, operation and improvement of said State institutions . . ." and Sec. 3 provides, in part, that "the several sums of money specified hereinafter . . . are hereby appropriated . . . to the several educational institutions and other educational agencies named in this Act, for their support, maintenance, buildings, operation and improvements."

Sec. 4 of said H.B. 246, contains, among others, the following provisions:

"For the purpose of paying the expenses incurred for administering the Pure Feed Laws . . . there is hereby appropriated to the experiment stations of the Agricultural and Mechanical College of Texas out of the receipts

accrued to the credit of the Pure Feed Fund for each of the fiscal years ending August 31, 1948, and August 31, 1949, such amounts thereof as shall be necessary for the efficient administration and operation of said Pure Feed Laws. The unexpended balance in said fund may be used for any of the purposes herein appropriated for the Agricultural and Mechanical College of Texas, or for the purposes of conducting experiments with feeds by the Texas Agricultural Experiment Station, provided that any salaries paid or supplemented therefrom shall not exceed those paid for the same or similar services in the Main College."

The Board of Directors of A. & M. College was authorized to establish and maintain in Gonzales County, Texas, an agricultural experiment station for investigations and experiments in the study of poultry problems by Art. 149H, Vernon's Civil Statutes. Sec. 2 of said Art. 149H provides, in part, as follows:

"The Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized and empowered to secure a suitable site for the location of said agricultural experiment station in Gonzales County, Texas, . . . The said Board of Directors is authorized to accept donations of land, water, equipment, money or anything of value for the establishment and maintenance of said station and to use donations and appropriations which might hereafter be made for the erection of the necessary buildings and equipment . . . , if and after the lands necessary for said station have been purchased or donated."
(Underlining supplied)

The Pure Feed Fund, which is the source of the moneys with which you intend to erect the employee's residence, is a special fund in which there are deposited the tag and certification fees collected by A. & M. College on all feeding stuff used or sold in this State. The fees are paid to the Director of the Texas Agricultural Experiment Station at A. & M. and by him deposited in the State Treasury. Art. 3875, V.C.S.

The quoted provisions of the Appropriation Bill do not undertake to limit the Board of Directors in the expenditure of the balance in the Pure Feed Fund. It is true that the moneys in said fund are public moneys which must be re-appropriated every two years by the Legislature in order that they may be "expended in performing the duties" required by the pure feed statutes. However, as a matter of legislative practice we know that the use of these funds has been left largely to the discretion of the Director of the Experiment Station and the Board of Directors of A. & M. College.

We believe that one of the purposes of the appropriation for A. & M. College in H.B. 246 is the maintenance, operation and improvement of the Gonzales Experiment Station, as evidenced by Items 113 through 117 of this Act. If in the sound discretion of the Board of Directors of A. & M. College, an employee's residence is a necessary building at the Gonzales Experiment Station, the Board may authorize erection of such a residence to be paid for from the unexpended balance of the Pure Feed Fund.

SUMMARY

The Board of Directors of the A. & M. College of Texas may erect an employee's residence at the Gonzales Experiment Station from the unexpended balance of the Pure Feed Fund, if in the discretion of the Board such residence is a necessary building at this station. Art. 149H, V.C.S.; Secs. 2 and 3, H.B. 246, Acts 50th Leg., R.S. 1947.

Yours very truly

APPROVED:

Price Daniel

ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

By

James T. Bryan
James T. Bryan
Assistant

JTB/lh